

ASSEMBLY BILL

No. 702

**Introduced by Assembly Member Portantino
(Principal coauthor: Assembly Member Levine)**

February 22, 2007

An act to add Section 17537.12 to the Business and Professions Code, relating to deceptive practices.

LEGISLATIVE COUNSEL'S DIGEST

AB 702, as introduced, Portantino. Musical performances or productions: deceptive acts.

Existing law prohibits various unfair business practices, including certain advertising practices. Existing law provides various remedies for these violations, including civil penalties, restitution, and injunctive relief.

This bill would make it unlawful for any person to advertise or conduct a live musical performance or production through the use of a false, deceptive, or misleading affiliation, connection, or association between a performing group and a recording group, as defined, except under specified circumstances.

Existing law also makes it a crime to violate any of the provisions governing advertising. By adding this new provision to those provisions, this bill would expand the scope of an existing crime, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17537.12 is added to the Business and
2 Professions Code, to read:
3 17537.12. (a) This section shall be known and may be cited
4 as the Truth in Music Advertising Act.
5 (b) As used in this section, the following terms have the
6 following meanings unless the context clearly indicates otherwise:
7 (1) “Performing group” means a vocal or instrumental group
8 seeking to use the name of another group that has previously
9 released a commercial sound recording under that name.
10 (2) “Recording group” means a vocal or instrumental group, at
11 least one of whose members has previously released a commercial
12 sound recording under that group’s name and in which the member
13 or members have a legal right by virtue of use or operation under
14 the group name without having abandoned the name or affiliation
15 with the group.
16 (3) “Sound recording” means a work that results from the
17 fixation on a material object of a series of musical, spoken, or other
18 sounds regardless of the nature of the material object, such as a
19 disk, tape, or other phono-record, in which the sounds are
20 embodied.
21 (c) It is unlawful for any person to advertise or conduct a live
22 musical performance or production through the use of a false,
23 deceptive, or misleading affiliation, connection, or association
24 between a performing group and a recording group unless any of
25 the following apply:
26 (1) The performing group is the authorized registrant and owner
27 of a federal service mark for the group registered in the United
28 States Patent and Trademark Office.
29 (2) At least one member of the performing group was previously
30 a member of the recording group and has a legal right by virtue of
31 use or operation under the group name without having abandoned
32 the name or affiliation of the group.
33 (3) The live musical performance or production is identified in
34 all advertising and promotion as a salute or tribute, and the name
35 of the vocal or instrumental group performing is not so closely

1 related or similar to that used by the recording group that it would
2 tend to confuse or mislead the public.

3 (4) The advertising does not relate to a live musical performance
4 or production taking place in this state.

5 (5) The performance or production is expressly authorized by
6 the recording group.

7 SEC. 2. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.